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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,669	01/03/2001	Bernt Sweder Van Asbeck	30394-1041	7552
5179	7590	07/22/2004	EXAMINER	
PEACOCK MYERS AND ADAMS P C P O BOX 26927 ALBUQUERQUE, NM 871256927				KETTER, JAMES S
ART UNIT		PAPER NUMBER		
		1636		

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/700,669

Applicant(s)

VAN ASBECK ET AL.

Examiner

James S. Ketter

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 June 2004.
2a) This action is **FINAL**. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 7,9-13,17 and 18 is/are pending in the application.
4a) Of the above claim(s) 11-13 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 7,9,10,17 and 18 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

Claims 11-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 7, 9 and 10, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Levine et al. (V), for reasons of record set forth in Paper No. 10, mailed 29 January 2003.

At page 6 of the remarks filed 1 August 2003, Applicants argue that Levine et al. teaches treatment of HIV-related lymphoma by administration of bleomycin, but that

lymphoma is a carcinoma, which is not a disease caused by a virion. Applicants note that "lymphoma is an AIDS-related complication, but there is no evidence of record to suggest or believe that lymphoma is "caused" by a virion, specifically the HIV virus." However, as noted in the Advisory Action mailed 27 February 2004, treatment of HIV-associated conditions is not distinguished from treatment of direct manifestations of HIV infection by any definition in the specification or the art, and it is apparent that a condition that arises commonly as a result of a virus infection, but rarely in its absence, may be understood to have been caused by that virus. As such, Levine et al. still applies to the claims.

Claims 7, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Cheng et al. (B), for reasons of record set forth in Paper No. 10, mailed 29 January 2003.

At page 7 of the remarks filed 1 August 2003, Applicants argue that "Cheng et al. does not disclose use of a second substance, i.e., administration of an extracellular iron-chelating compound. It is noted that human papilloma virus (HPV) is a DNA virus, and that claim 9 is drawn to an RNA virus." However, the instant claims are not limited to RNA viruses, and there is currently no limitation to a second substance being employed. As such, Cheng et al. applies to the claims.

Any inquiry concerning this communication or earlier communications from the Examiner with respect to the examination on the merits should be directed to James Ketter whose telephone number is (571) 272-0770. The Examiner normally can be reached on M-F (9:00-6:30), with alternate Fridays off.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Remy Yucel, can be reached at (571) 272-0781.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

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For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Jsk
July 19, 2004



JAMES KETTER
PRIMARY EXAMINER